

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

NORMA J. ROBINSON,)	
)	
Plaintiff)	
)	
vs.)	No. CIV-04-1267-C
)	
JO ANNE B. BARNHART,)	
Commissioner of Social Security)	
Administration,)	
)	
Defendant)	

ORDER ADOPTING REPORT AND RECOMMENDATION

This action for final review of the Commissioner's denial of disability insurance benefits was referred for initial proceedings to United States Magistrate Judge Doyle W. Argo consistent with 28 U.S.C. § 636(b)(1)(B). Judge Argo entered his Report and Recommendation on November 4, 2005, recommending that the decision of the Commissioner be affirmed. Plaintiff has timely filed an objection, and, at the Court's direction, Defendant has responded thereto. See LCvR72.1(b). The Court therefore considers the matter de novo.

Plaintiff's objection raises the same two issues raised and fully briefed before Judge Argo. The first is that the Administrative Law Judge (ALJ) disregarded the opinion of the treating physician when formulating the residual functional capacity. The first objection is rejected, for the reasons stated in the Report and Recommendation.

The second objection, that the ALJ did not adequately discuss his credibility findings, is more troublesome. In Hardman v. Barnhart, 362 F.3d 676 (10th Cir. 2004), the Tenth Circuit emphasized its earlier case law requiring more than a boilerplate recitation of the factors in the regulations and mandating the findings “‘should be closely and affirmatively linked to substantial evidence and not just a conclusion in the guise of findings.’” Id. at 678-89 (quoting Kepler v. Chater, 68 F.3d 387, 391 (10th Cir. 1995)). The ALJ’s finding, at first blush, appears to be just such a boilerplate recitation. However, in his earlier findings, he comments on the reasons that physical findings and objective test results do not support Plaintiff’s allegations. Moreover, Plaintiff fails to specify, in her objection, what evidence, if any, supports a contrary result. Thus, in contrast to Hardman, in this case the Court is able to find support in the record for the ALJ’s conclusions regarding credibility.

Accordingly, the Court adopts the Report and Recommendation of the Magistrate Judge in its entirety, and, for the reasons stated therein, the decision of the Commissioner is affirmed. A judgment will enter accordingly.

IT IS SO ORDERED this 12th day of January, 2006.


ROBIN J. CAUTHRON
United States District Judge